



Security Council

Distr.
GENERAL

S/AC.26/2000/14
15 June 2000

Original: ENGLISH

UNITED NATIONS
COMPENSATION COMMISSION
GOVERNING COUNCIL

TENTH REPORT OF THE EXECUTIVE SECRETARY PURSUANT TO ARTICLE 41
OF THE PROVISIONAL RULES FOR CLAIMS PROCEDURE

1. The present report identifies, pursuant to article 41 of the Provisional Rules For Claims Procedure (S/AC.26/1992/10) (the "Rules"), corrections to approved claim awards in categories "A" and "C".

I. CORRECTIONS TO CATEGORY "A" CLAIM AWARDS

2. Recommendations for corrections to category "A" claims include duplicate claims and decision 21 reductions reported by Governments.

A. Category "A" duplicate claims

3. Since the last article 41 report (S/AC.26/2000/10), a total of 361 claims have been found to be duplicates of other claims also awarded compensation in category "A". Out of this total, 360 claims were identified by three Governments and one claim was detected by the secretariat during the application of the cross-category checking programme.

4. The majority of the duplicate claims were located by the Government of Sri Lanka. Sri Lanka identified 560 potential duplicate claims in the fifth instalment and two potential duplicate claims in the fourth instalment. To date, the secretariat has confirmed that 346 of those claims are actual duplicates. The remaining claims identified by Sri Lanka are in the process of being verified and, if found to be duplicates, will be reported in the next article 41 report.

5. With respect to the other duplicate claims, 13 claims were reported by the Government of India and one claim, for the Federal Republic of Yugoslavia, was reported by both the Government of the Federal Republic of Yugoslavia and the Government of Bosnia and Herzegovina. As noted above, a duplicate claim for India was also detected while running the cross-category checking programme, bringing the total duplicate claims reported for India to 14. No compensation should have been awarded for the duplicate claims and the total recommended awards should be revised accordingly. Table 1, infra, identifies the Governments concerned, the instalments to be adjusted, the total number of claims to be corrected and the total amount by which the instalment will be reduced.

Table 1. Category "A" duplicate claims included in the tenth article 41 report

<u>Country</u>	<u>Instalment</u>	<u>Total number of duplicate claims</u>	<u>Amount of reduction (USD)</u>
India	Second	2	5,000.00
	Fourth	2	8,000.00
	Fifth	9	36,500.00
	Sixth	1	2,500.00
Sri Lanka	Fourth	2	8,000.00
	Fifth	344	1,374,500.00
Yugoslavia, Federal Republic of	Sixth	1	4,000.00
<u>Total</u>		361	1,438,500.00

6. The adjusted claim awards have been included in the corrected total recommended awards in annex I, infra.

B. Decision 21 corrections

7. Decision 21 (S/AC.26/Dec.21 (1994)) of the Governing Council states that "any claimant who has selected a higher amount under category 'A' (USD 4,000 or USD 8,000) and has also filed a category 'B', 'C' or 'D' claim will be deemed to have selected the corresponding lower amount under category 'A'". Three claimants from India who filed for higher amounts in category "A" have been found to have also filed claims in category "C". In accordance with decision 21, one claim in the second instalment, one claim in the third instalment and one claim in the fourth instalment have had their claim amounts adjusted downward.

8. The adjusted claim awards for the second to sixth instalments, and the total revised recommended awards for category "A" claims, are located in tables 1-6 of annex I.

II. CORRECTIONS TO CATEGORY "C" CLAIM AWARDS

9. Corrections to category "C" claim awards include corrections relating to the erroneous deduction of category "A" claim amounts made from category "C" recommendations for departure and relocation costs ("C1-Money" losses), duplicate category "C" claims identified by Governments and international organizations, and corrections relating to computational, clerical, typographical or other errors contained in the electronic category "C" claims.

A. Corrections relating to the erroneous deduction of category "A" claim amounts from C1-Money losses

10. After concluding the processing of the seventh instalment, it was ascertained that throughout each electronic processing cycle, category "C" claims had been matched against all claims in category "A", including rejected claims. As a result, some C1-Money awards were erroneously reduced on the basis that the category "C" claimants had also received awards in category "A".

11. For 126 category "C" claims with C1-Money awards, it has been determined that the corresponding category "A" claims were not awarded compensation and therefore no deduction should have been made from the C1-Money claims. As a result, 126 claims have had the deducted amounts reinstated and it is recommended that the corresponding awards be increased by a total of USD 246,177.40 as indicated in table 2.

Table 2. Corrections relating to the erroneous deduction of category "A" claim amounts from C1-Money losses

<u>Country or international organization</u>	<u>Instalment</u>	<u>Total number of claims affected</u>	<u>Amount of net effect (USD)</u>
Australia	Seventh	1	1,391.70
Bangladesh	Fourth	1	692.04
India	Fourth	2	2,208.76
	Fifth	3	4,092.52
	Sixth	2	2,757.06
	Seventh	5	6,440.95
Jordan	Fourth	15	31,421.84
	Fifth	20	42,322.92
	Sixth	31	62,767.37
	Seventh	21	59,503.83
Tunisia	Sixth	11	11,118.03
	Seventh	12	15,978.86
United Kingdom	Fourth	1	481.52

<u>Country or international organization</u>	<u>Instalment</u>	<u>Total number of claims affected</u>	<u>Amount of net effect (USD)</u>
UNHCR Bulgaria	Seventh	1	5,000.00

B. Category "C" duplicate claims

12. In response to reports from Governments, the secretariat reviewed 69 cases of potential duplicate category "C" claims. In the large majority of situations reviewed, the claims were found not to have been submitted by the same claimants for the same losses. However, it was confirmed that eight claims were in fact duplicates. In another claim, it is recommended that a personal property loss, not identified in the valid claim, be transferred from the rejected duplicate to the valid claim.

13. The awards for the eight confirmed duplicate claims were corrected to zero and the claims have been identified in the database as rejected duplicates. Because of the correction to the valid claim, a total of nine claims were affected by these actions, as reflected in table 3 below, for a net decrease of USD 87,497.54.

Table 3. Category "C" duplicate claims included in the tenth article 41 report

<u>Country or international organization</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Canada	Fourth	1	(13,173.01)
	Seventh	1	(44,142.30)
France	Second	1	20,673.48
	Seventh	1	(27,350.32)
India	Second	1	(7,993.08)
	Fourth	1	(5,205.49)
	Fifth	1	(3,315.04)
	Seventh	1	(4,199.59)
Philippines	Sixth	1	(2,792.19)

C. Miscellaneous article 41 corrections to category "C" awards

14. For this report, more than 1,000 category "C" claims presenting specific computational, clerical, typographical or other errors were identified during reviews for discrepancies between the paper and electronic claims in accordance with the Panel's decisions and recommendations relating to loss criteria and valuation, as described in

the seventh instalment report (S/AC.26/1999/11) and as requested by submitting Governments. The majority of these corrections relate to "C6-Salary" losses for which claims have been corrected in accordance with the Panel's decisions and recommendations in paragraphs 250 to 275 of the seventh instalment report. Other corrections relate to C5-bank accounts in Iraq, as discussed at paragraphs 227 to 237 of the same report. As a result, it is recommended that corrections be implemented in 332 claims for a net increase of USD 3,009,339.04 in awarded amounts as reflected in table 4 below.

Table 4. Miscellaneous corrections to category "C" awards

<u>Country or international organization</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Australia	Sixth	1	4,734.00
Austria	Sixth	1	16,230.20
Bangladesh	Second	3	9,165.03
	Sixth	23	155,380.24
	Seventh	3	6,897.95
Canada	Sixth	1	18,181.80
Czech Republic	Fifth	4	44,306.50
	Sixth	1	10,394.37
Finland	Sixth	1	6,346.62
France	Fourth	1	17,639.49
	Sixth	1	12,285.42
	Seventh	1	(5,000.00)
India	Second	3	5,103.50
	Fourth	3	33,698.32
	Fifth	2	(684.85)
	Sixth	18	123,437.25
	Seventh	22	80,083.39
Iran, Islamic Republic of	Sixth	1	1,211.05
	Seventh	1	9,809.73
Ireland	Sixth	1	9,448.67
Israel	Sixth	7	16,506.97
	Seventh	8	49,432.93
Japan	Sixth	1	22,104.67

<u>Country or international organization</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Jordan	Second	11	118,399.87
	Fourth	4	52,426.62
	Fifth	17	232,722.39
	Sixth	49	741,311.51
	Seventh	32	422,811.30
Kuwait	Fifth	2	15,700.00
	Seventh	1	7,489.26
Lebanon	Second	1	4,844.30
	Fifth	3	30,621.77
	Sixth	2	41,656.65
	Seventh	5	56,016.89
Netherlands	Sixth	1	28,590.94
	Seventh	1	11,318.46
New Zealand	Second	1	9,371.09
	Seventh	1	7,685.83
Pakistan	Seventh	1	14,702.42
Philippines	Sixth	45	111,726.30
	Seventh	6	10,559.75
Poland	Seventh	8	19,623.86
Republic of Korea	Fifth	1	5,234.48
	Seventh	1	15,000.00
Slovenia	Sixth	4	33,290.00
Sweden	Sixth	1	3,474.03
	Seventh	1	7,588.89
Turkey	Fourth	1	6,061.78
	Sixth	4	19,877.97
United Kingdom	Second	1	52,177.22
	Fourth	2	22,693.27
	Sixth	10	139,442.50
United States	Sixth	3	64,750.00
Yemen	Seventh	3	42,179.93
UNDP Kuwait	Sixth	1	13,276.51

Annex I

CORRECTED CATEGORY "A" CLAIM AWARDS

1. Based on the corrections reported in paragraphs 4-6, *supra*, the category "A" claims aggregate corrected amounts per country, by claim instalment, are as follows:

Table 1. Second instalment category "A" claims corrections

<u>Country or international organization</u>	<u>Previous total recommended award (USD)</u>	<u>Corrected total recommended award (USD)</u>
India	50,855,500.00	50,847,500.00

Table 2. Third instalment category "A" claims corrections

<u>Country or international organization</u>	<u>Previous total recommended award (USD)</u>	<u>Corrected total recommended award (USD)</u>
India	16,732,500.00	16,729,500.00

Table 3. Fourth instalment category "A" claims corrections

<u>Country or international organization</u>	<u>Previous total recommended award (USD)</u>	<u>Corrected total recommended award (USD)</u>
India	146,300,000.00	146,290,500.00
Sri Lanka	69,796,500.00	69,788,500.00

Table 4. Fifth instalment category "A" claims corrections

<u>Country or international organization</u>	<u>Previous total recommended award (USD)</u>	<u>Corrected total recommended award (USD)</u>
India	147,616,500.00	147,580,000.00
Sri Lanka	71,533,000.00	70,158,500.00

Table 5. Sixth instalment category "A" claims corrections

<u>Country or international organization</u>	<u>Previous total recommended award (USD)</u>	<u>Corrected total recommended award (USD)</u>
India	17,327,500.00	17,325,000.00
Yugoslavia, Federal Republic of	880,000.00	876,000.00

2. Based on the above corrections, the revised category "A" claim total recommended awards by instalment are as follows:

Table 6. Revised total recommended awards for category "A" claims

<u>Instalment</u>	<u>Previous total recommended award (USD) a/</u>	<u>Corrected total recommended award (USD)</u>
First	189,606,000.00	no change
Second	641,252,500.00	641,244,500.00
Third	531,502,000.00	531,499,000.00
Fourth	732,674,500.00	732,657,000.00
Fifth	784,542,000.00	783,131,000.00
Sixth	316,261,000.00	316,254,500.00
Special	2,554,500.00	no change

a/ The previous total recommended award amounts in this column include the initial awards approved by the Governing Council in its decisions 22, 28, 29, 31, 33, 38 and 67 (S/AC.26/Dec.22 (1994), S/AC.26/Dec.28 (1995), S/AC.26/Dec.29 (1995), S/AC.26/Dec.31 (1995), S/AC.26/Dec.33 (1995), S/AC.26/Dec.38 (1996) and S/AC.26/Dec.67 (1999)) and subsequent corrections approved by the Governing Council in its decisions 42, 44, 51, 54, 57, 71, 79, 85 and 95 (S/AC.26/Dec.42 (1997), S/AC.26/Dec.44 (1997), S/AC.26/Dec.51 (1998), S/AC.26/Dec.54 (1998), S/AC.26/Dec.57 (1998), S/AC.26/Dec.71 (1999), (S/AC.26/Dec.79 (1999), (S/AC.26/Dec.85 (1999) and (S/AC.26/Dec.95 (2000)).

Annex II

CORRECTED CATEGORY "C" CLAIM AWARDS

1. Based on the corrections reported in paragraphs 9-13, supra, the category "C" claims aggregate corrected amounts per country, by claim instalment, are as follows:

Table 1. Second instalment category "C" claims corrections

<u>Country or international organization</u>	<u>Previous total recommended amount (USD)</u>	<u>Corrected total recommended amount (USD)</u>
Bangladesh	12,168,258.30	12,177,423.33
France	453,571.99	474,245.48
India	70,389,572.27	70,386,682.69
Jordan	38,902,796.72	39,021,196.59
Lebanon	26,548,582.90	26,553,427.20
New Zealand	74,026.28	83,397.38
United Kingdom	4,669,734.28	4,721,911.50

Table 2. Fourth instalment category "C" claims corrections

<u>Country or international organization</u>	<u>Previous total recommended amount (USD)</u>	<u>Corrected total recommended amount (USD)</u>
Bangladesh	786,885.44	787,577.48
Canada	1,243,162.58	1,229,989.57
France	493,887.55	511,527.04
India	45,946,993.90	45,977,695.49
Jordan	24,307,865.58	24,391,714.04
Turkey	1,270,834.40	1,276,896.18
United Kingdom	13,239,489.34	13,262,664.13

Table 3. Fifth instalment category "C" claims corrections

<u>Country or international organization</u>	<u>Previous total recommended amount (USD)</u>	<u>Corrected total recommended amount (USD)</u>
Czech Republic	146,524.31	190,830.81
India	67,715,447.22	67,715,539.85
Jordan	94,381,201.82	94,656,247.13
Kuwait	329,215,788.04	329,231,488.04
Lebanon	2,450,280.73	2,480,902.50
Republic of Korea	174,309.52	179,544.00

Table 4. Sixth instalment category "C" claims corrections

<u>Country or international organization</u>	<u>Previous total recommended amount (USD)</u>	<u>Corrected total recommended amount (USD)</u>
Australia	1,399,064.45	1,403,798.45
Austria	796,772.24	813,002.44
Bangladesh	21,459,510.08	21,614,890.32
Canada	9,386,296.50	9,404,478.30
Czech Republic	86,125.43	96,519.80
Finland	58,539.80	64,886.42
France	2,759,807.87	2,772,093.29
India	104,850,234.19	104,976,428.50
Iran, Islamic Republic of	12,658,608.86	12,659,819.11
Ireland	1,327,307.88	1,336,756.55
Israel	177,586.92	194,093.89
Japan	415,840.98	437,945.65
Jordan	180,891,651.27	181,695,730.15
Lebanon	11,898,155.19	11,939,811.84
Netherlands	967,778.95	996,369.89
Philippines	10,698,665.00	10,807,599.11
Slovenia	121,804.85	155,094.85
Sweden	1,219,711.70	1,223,185.73
Tunisia	3,347,597.72	3,358,715.75
Turkey	1,794,550.10	1,814,428.07

<u>Country or international organization</u>	<u>Previous total recommended amount (USD)</u>	<u>Corrected total recommended amount (USD)</u>
United Kingdom	22,200,749.80	22,340,192.30
United States	17,569,949.12	17,634,699.12
UNDP Kuwait	10,384,382.32	10,397,658.83

Table 5. Seventh instalment category "C" claims corrections

<u>Country or international organization</u>	<u>Previous total recommended amount (USD)</u>	<u>Corrected total recommended amount (USD)</u>
Australia	1,732,428.95	1,733,820.65
Bangladesh	37,746,419.68	37,753,317.63
Canada	11,973,474.82	11,929,332.52
France	6,589,534.21	6,557,183.89
India	186,928,200.34	187,010,525.09
Iran, Islamic Republic of	27,095,092.86 a/	27,104,902.59
Israel	4,943,872.86	4,993,305.79
Jordan	281,494,326.55	281,976,641.68
Kuwait	787,939,426.70	787,946,915.96
Lebanon	15,615,066.66	15,671,083.55
Netherlands	821,067.26	832,385.72
New Zealand	238,597.59	246,283.42
Pakistan	74,552,547.72	74,567,250.14
Philippines	10,349,808.76	10,360,368.51
Poland	731,511.47	751,135.33
Republic of Korea	2,365,481.86	2,380,481.86
Sweden	935,610.32	943,199.21
Tunisia	8,424,710.75	8,440,689.61
Yemen	79,199,517.09	79,241,697.02
UNHCR Bulgaria	285,424.54	290,424.54

a/ Due to a typographical error, the corrected total recommended award for the Islamic Republic of Iran was reported as 27,095,092.06 in the ninth article 41 report. That amount should have read 27,095,092.86 as identified herein.

Table 6. Revised total recommended awards for category "C" claims

<u>Instalment</u>	<u>Previous total recommended award (USD) a/</u>	<u>Corrected total recommended award (USD)</u>
First	51,086,478.00	no change
Second	431,463,342.93	431,675,084.34
Third	324,883,154.77	no change
Fourth	654,449,206.59	654,598,151.73
Fifth	735,072,726.97	735,443,727.66
Sixth	763,875,585.72	765,543,093.66
Seventh	1,931,655,410.19	1,932,424,233.91

a/ The previous total recommended award amounts in this column include the initial awards approved by the Governing Council in its decisions 25, 36, 37, 39, 41, 52 and 70 (S/AC.26/Dec.25 (1994), S/AC.26/Dec.36 (1996), S/AC.26/Dec.37 (1996), S/AC.26/Dec.39 (1996), S/AC.26/Dec.41 (1997), S/AC.26/Dec.52 (1998) and S/AC.26/Dec.70 (1999)) and subsequent corrections approved by the Governing Council in its decisions 39, 41, 52, 85 and 95 (S/AC.26/Dec.39 (1996), S/AC.26/Dec.41 (1997), S/AC.26/Dec.52 (1998), S/AC.26/Dec.85 (1999) and S/AC.26/Dec.95 (2000)).



Security Council

Distr.
GENERAL

S/AC.26/2000/15
29 September 2000

Original: ENGLISH

UNITED NATIONS
COMPENSATION COMMISSION
GOVERNING COUNCIL

SPECIAL REPORT AND RECOMMENDATIONS MADE BY THE "D1" PANEL OF
COMMISSIONERS CONCERNING 223 CLAIMS OF BOSNIA AND HERZEGOVINA
FOR DEPARTURE FROM IRAQ OR KUWAIT (CATEGORY "A" CLAIMS)

Introduction and background information to the 223
category "A" claims of Bosnia and Herzegovina

1. This special report contains the recommendations to the Governing Council of the United Nations Compensation Commission ("the Commission"), submitted pursuant to article 37(e) of the Provisional Rules for Claims Procedure ("the Rules") by the "D1" Panel of Commissioners ("the Panel"), being one of two Panels appointed to review individual claims for damages above USD 100,000. In view of the fact that the category "A" Panel of Commissioners ceased functioning in October 1996, the Governing Council instructed the Panel to review 223 category "A" claims of Bosnia and Herzegovina for departure from Iraq or Kuwait in the following special circumstances communicated to the Panel by the Commission's secretariat:

(a) On 27 January 1994, the secretariat received a letter from the Permanent Mission of the Republic of Bosnia and Herzegovina in Geneva, dated 25 January 1994, attaching a list of 1,535 employees of the GIK "HIDROGRADNJA" Civil Engineering and General Contracting Company ("HIDROGRADNJA") who had been working in Iraq on the Bekhme Dam Project and left Iraq immediately following Iraq's invasion of Kuwait. The Mission's letter explained that although HIDROGRADNJA's workforce in Iraq had exceeded 2,100 labourers, the Government of Bosnia and Herzegovina had been able by January 1994, despite war conditions in Bosnia and Herzegovina, to collect the necessary documents to register and file 580 category "A" claims with the Commission for such workers in accordance with the prescribed procedure.

(b) With regard to the remaining 1,535 employees of HIDROGRADNJA, the Mission explained that these workers lived in areas that were then (1994) in a war zone where much of the population had been "ethnically cleansed" and dispersed. The Mission suspected that many of the 1,535 workers on the list might have been killed or injured in the fighting or could still be at the battlefield. Alternatively, the Mission noted that some of the workers might have been incarcerated in concentration camps, were in hospitals or had become refugees in other European countries. Under such conditions, the Mission concluded that it might not be possible for the Government of Bosnia and Herzegovina to collect the necessary documents and details from the workers on the list to permit the normal filing of category "A" claims for them. The Mission therefore requested the Commission to accept its submission of the list of HIDROGRADNJA's workers attached to its letter of 25 January 1994 as constituting the filing of category "A" claims for the individuals in question, thereby making them eligible for compensation as a result of their departure from Iraq.

(c) Subsequent to sending the January 1994 letter, the Government of Bosnia and Herzegovina continued to file category "A" claims in the normal format with the Commission, which eventually totalled 2,587 in number. In the light of the large number of category "A" claims that were

filed by the Government of Bosnia and Herzegovina, it was the secretariat's understanding that formal claims had been submitted for all of the 1,535 HIDROGRADNJA employees on the original list. However, this understanding was corrected by HIDROGRADNJA in a 21 December 1998 letter that attached a revised list of 305 workers who had appeared on its original January 1994 list for whom it concluded that category "A" claims had not been filed with the Commission.

(d) In subsequent meetings between the secretariat and the Deputy Permanent Representative of the Mission of Bosnia and Herzegovina in Geneva, it was eventually determined that valid and timely category "A" claims had in fact been filed for 82 of the 305 HIDROGRADNJA employees on the company's list by the Government of the former Federal Republic of Yugoslavia (Serbia and Montenegro). As a result, out of the 305 HIDROGRADNJA employees who appeared on the December 1998 revised list, only 223 were confirmed as not having had category "A" claims submitted on their behalf with the Commission.

2. The Permanent Mission of Bosnia and Herzegovina in Geneva requested the secretariat to bring this issue to the attention of the Governing Council in order for a decision to be taken with regard to the eligibility of the 223 HIDROGRADNJA workers to receive compensation resulting from their category "A" claims. In response, the secretariat submitted to the Governing Council at its thirty-first session held in March 1999, the list of the 223 HIDROGRADNJA workers along with the Mission's proposal to have its January 1994 listing of workers serve as a formal filing for these claimants. After considering the information, the Governing Council requested the secretariat to prepare an information note on the subject for the Council's review at its thirty-second session.

3. In considering the secretariat's information note at its thirty-second session held from 22 to 24 June 1999, the Council took into account the fact that the 223 claims in question had originated in a "war zone". On the assurances received from the secretariat that the consideration of such claims would not have a disruptive effect on the processing of other claims before the Commission, the Council accepted the filing of the 223 claims of Bosnia and Herzegovina as "late claims". Noting the fact that the category "A" Panel of Commissioners had ceased functioning in October 1996, the Council determined that the 223 category "A" claims should be put before the "D1" Panel of Commissioners for review. The "D1" Panel was instructed to submit a special report and recommendations on the 223 claims to the Governing Council for its consideration at a later date.

I. THE "D1" PANEL'S REVIEW OF THE 223 CATEGORY "A" CLAIMS
OF BOSNIA AND HERZEGOVINA

4. On 7 September 1999, the secretariat submitted to the "D1" Panel of Commissioners for its consideration a written report and relevant supporting documents concerning the 223 category "A" claims. Among the materials presented to the Panel were supporting documents submitted by HIDROGRADNJA to the Commission in March 1994 in support of its own claim in relation to the Bekhme Dam Project (UNCC claim number 4000224) which was eventually resolved by the "E3" Panel of Commissioners (construction and engineering claims) in its report and recommendations on the first instalment of "E3" claims (S/AC.26/1998/13), which was approved by the Governing Council in decision 58 (S/AC.26/Dec. 58 (1998)). Also presented to the "D1" Panel were compilations prepared by the Government of Bosnia and Herzegovina breaking down the 223 claims into three groupings based on identification and other evidentiary documentation.

5. The first of the three groupings covered 87 of the 223 category "A" claimants for whom the Government was able to provide photocopies of contemporaneous passports with exit stamps and border crossing entries demonstrating that the claimants had departed Iraq during the period of 2 August 1990 to 2 March 1991. For the second grouping, representing 38 of the 223 category "A" claimants, the Government was unable to provide photocopies of the contemporaneous passports used by the claimants during their work in Iraq on the Bekhme Dam Project. However, for this group, the authorities were able to furnish other identification documentation including death certificates and passport numbers as well as certifications and other legal documents provided by municipal governments and police departments in Bosnia and Herzegovina replacing passports that had been lost, destroyed or stolen during the armed conflict in Bosnia and Herzegovina. For the third group, representing 98 of the 223 category "A" claimants, the Government was unable to provide any identification information other than the names of the former HIDROGRADNJA workers.

6. In analyzing these documents, the "D1" Panel recalled that category "A" claims are among the "most urgent claims" for which the Governing Council's decision on the "Criteria for Expedited Processing of Urgent Claims" (S/AC.26/1991/1) ("decision 1") set forth "simple and expedited procedures" in order to provide "prompt compensation in full" or "substantial interim relief". The Panel has been aware of the evidentiary standard applicable to category "A" claims, as stated in decision 1 and more specifically in article 35(2)(a) of the Rules, which reads:

"For the payment of fixed amounts in the case of departures, claimants are required to provide simple documentation of the fact and date of departure from Iraq or Kuwait. Documentation of the actual amount of loss will not be required."

7. Although the Government of Bosnia and Herzegovina was unable to provide supporting documentation for each of the 223 category "A" claims in question, to demonstrate on an individual basis that each former HIDROGRADNJA worker departed Iraq during the period between 2 August 1990 to 2 March 1991, the Panel was satisfied as to the claimants' entitlements by the thorough documentary evidence provided by HIDROGRADNJA for the portion of its own Bekhme Dam Project claim related to evacuation costs. In particular, the HIDROGRADNJA documentation included contemporaneous records prepared by the company in conjunction with the evacuation of its workforce that listed all of the 223 category "A" claimants by name and date of departure from Iraq (almost all of which took place in either August or September 1990). Based on its analysis of the HIDROGRADNJA company records, the Panel concluded that all 223 claimants had indeed departed from Iraq during the operative period and would therefore, in principle, be eligible to receive compensation for their departure losses.

8. Although the evidence reviewed in support of the claim showed that the category "A" claimants were eligible for compensation, the Panel was in the unique position of having no category "A" claim forms signed by the claimant himself or herself, which it could review. At a minimum, the Panel felt that the claimants should be required to establish their identity before the Commission and to certify that they have been in contact with the Government of Bosnia and Herzegovina and have authorized the Government to file category "A" claims on their behalf. The Panel therefore directed the secretariat to inform the Permanent Mission of Bosnia and Herzegovina that, prior to the Panel being able to recommend the payment of compensation for the 223 category "A" claimants, the Government authorities would have to produce identification documentation for each claimant and a signed authorization for the Government to submit a claim on the claimant's behalf.

II. THE RESPONSE OF THE GOVERNMENT OF BOSNIA AND HERZEGOVINA TO THE PANEL'S REQUIREMENTS

9. Having been informed in September 1999 of the Panel's requirement for identification documentation and for proof that the HIDROGRADNJA workers have authorized the Government to file category "A" claims on their behalf, the authorities in Bosnia and Herzegovina concluded that the most efficient way to present the necessary information to the Panel would be to create a standard claim form for all 223 claimants. The resulting claim form developed by the Government of Bosnia and Herzegovina includes entries providing the following information: the name, nationality and marital status of the claimant; the claimant's passport number, national card or certificate number; Iraqi residence permit number and national claim number; the date and place of birth of the claimant; the claimant's present residential and mailing addresses; the claimant's employer and address in Iraq; and the claimant's date of departure from Iraq and date of return to Bosnia and Herzegovina. On the bottom of each form is the following statement: "I certify that this is my claim form and that the information

in the form is true and correct." Under the statement is the typed name of the claimant and spaces for the claimant to sign and date the claim form as well as to fill in the location in which the claimant's signature was affixed.

10. Having developed a claim form to demonstrate that the claimants authorized the Government of Bosnia and Herzegovina to file category "A" claims on their behalf, the Government authorities began the task of locating each claimant to inform him/her of the necessity of appearing in person at the Ministry of Foreign Trade and Economic Relations in Sarajevo to fill out and sign a claim form, and to provide the necessary supporting identification documentation. The first submission from the Government of Bosnia and Herzegovina in response to the Panel's directive, consisting of signed claim forms and identification documentation for 147 of the 223 claimants, was received by the secretariat on 29 October 1999. On 7 January 2000, signed claim forms and supporting identification materials were received for 28 additional claimants, bringing the total of category "A" claimants meeting the Panel's criteria to 175.

11. With its transmittal note of 7 January 2000, the Permanent Mission of Bosnia and Herzegovina attached a letter from the Ministry of Foreign Trade and Economic Relations in Sarajevo in which the Ministry indicated that, among the 48 individuals for whom signed claim forms and identification documents had not yet been produced, it had reason to believe that a number had already been awarded compensation by the Commission and had received payments through the Governments of the Republic of Croatia or the Federal Republic of Yugoslavia. The Ministry requested the secretariat to investigate the situation and delete any resulting confirmed duplicate claims from its list of 223 category "A" claimants.

12. Pursuant to a review of the Commission's category "A" claim records, the secretariat found that 17 out of the 223 claimants had indeed filed duplicate claims through the Governments of the Republic of Croatia and the Federal Republic of Yugoslavia and had already received award payments for their claims. In response to the Ministry's request, the secretariat therefore deleted the 17 claims in question from the original list of 223 claimants leaving a revised total of 206 category "A" claimants. Of this total, no signed claim forms or identification documentation had been provided for 31 such claimants as of 7 January 2000.

13. The Permanent Mission of Bosnia and Herzegovina provided four additional signed claim forms with accompanying identification information on 17 January 2000. The same materials were submitted for two more claimants on 14 March 2000 and for two final claimants on 14 July 2000. As of that date, the secretariat had received signed claim forms with accompanying identification documentation from 183 out of the revised total of 206 claimants. The Ministry of Foreign Trade and Economic Relations has been unable to locate the remaining 23 claimants and therefore, has not

been able to provide the necessary signed claim forms and supporting identification documentation for them.

14. Prior to the signing of this report and recommendations, the secretariat ran a computerized matching programme on the 183 claims against the entire category "A" claims population for Bosnia and Herzegovina. As a result of this search, three claims were located among the 183, which had already been resolved and awarded compensation through the Government of Bosnia and Herzegovina in previous instalments. The secretariat has therefore removed the three claims in question from the list of 206 claimants leaving a revised final total of 203. As of the date of the signing of this report and recommendations, 180 out of the final revised total of 203 claimants have provided signed claim forms and identification information while 23 have not provided the required documents.

III. CONCLUSION

15. Pursuant to article 37(e) of the Rules, the Panel presents its recommendations regarding the 203 category "A" claims of Bosnia and Herzegovina. Having considered the results of the verification of the claim forms and their attachments, the Panel finds that all 203 claimants are eligible to receive compensation for their losses, and based on the fact that the Government of Bosnia and Herzegovina has complied with the Panel's requirement by providing the necessary signed claim forms and identification documentation for 180 out of 203 claimants and, bearing in mind the urgent humanitarian nature of such claims, the Panel recommends the payment of compensation for the 180 category "A" claimants in the total amount of USD 720,000.

16. The Panel understands that the Government of Bosnia and Herzegovina is continuing its efforts to locate the remaining 23 claimants and to obtain from them the signed claim forms and identification documents in compliance with the Panel's requirement. The Panel therefore recommends the award and payment of compensation in the amount of USD 4,000 each (totalling USD 92,000) to such of the 23 claimants from whom the Government of Bosnia and Herzegovina is able to receive and file with the Commission the required signed claim forms and identification documentation.

17. Confidential reports containing the breakdown of amounts to be paid to each individual claimant and a list of the duplicate and pending claims will be provided to the Government of Bosnia and Herzegovina.

18. On the basis of the consideration formulated in Part IV, section C, sub-section 3, of the first report of the category "A" Panel (S/AC.26/1994/2), the Panel recommends that interest should be paid on the awarded amounts in category "A" claims in accordance with the Governing Council's decision on "Awards of interest" (S/AC.26/1992/16) ("decision 16"). The Panel also adopts the view expressed by the category "A" Panel that the phrase "the date the loss occurred" in decision 16 should be

interpreted to be a single date for all category "A" claims and that the date of Iraq's invasion of Kuwait, 2 August 1990, should serve as the fixed date.

Geneva, 17 August 2000

(Signed) R.K.P. Shankardass
Chairman

(Signed) H.M. Joko Smart
Commissioner

(Signed) M.C. Pryles
Commissioner
